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NEW

FILED

NOV - 6 2007

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JF

(PR)

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODYName HOPKINS, KEITH E.

(Last)

(First)

(Initial)

Prisoner Number F-38525Institutional Address CMF, P.O. Box 2000, Vacaville, CA. 95696

California Medical Facility, Vacaville, CA.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KEITH E. HOPKINS

(Enter the full name of plaintiff in this action.)

vs.

Suzan L. Hubbard

(Warden of Cal. Med. Facility

Vacaville, CA.)

(Enter the full name of respondent(s) or jailor in this action)

CV 07 5624

Case No.

(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

E-filing

Read Comments Carefully Before Filling In**When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition? Current Sentence.

12 (a) Name and location of court that imposed sentence (for example; Alameda
13 County Superior Court, Oakland):
14 Napa County Superior Court, Napa California.

15 Court Location
16 (b) Case number, if known CR-128767
17 (c) Date and terms of sentence 08/24/2006 to 8/25/2010
18 (d) Are you now in custody serving this term? (Custody means being in jail, on
19 parole or probation, etc.) Yes X No _____

20 Where?

21 Name of Institution: California Medical Facility
22 Address: P.O. Box 2000, Vacaville, CA. 95696

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 2 Counts of: P.C. §288 (a).

1 3. Did you have any of the following?

2 Arraignment: Yes No _____

3 Preliminary Hearing: Yes No _____

4 Motion to Suppress: Yes No _____

5 4. How did you plead?

6 Guilty _____ Not Guilty _____ Nolo Contendere X _____

7 Any other plea (specify) NO _____

8 5. If you went to trial, what kind of trial did you have?

9 Jury _____ Judge alone _____ Judge alone on a transcript _____

10 6. Did you testify at your trial? Yes _____ No _____

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment Yes No _____

13 (b) Preliminary hearing Yes No _____

14 (c) Time of plea Yes No _____

15 (d) Trial Yes _____ No _____

16 (e) Sentencing Yes No _____

17 (f) Appeal Yes No _____

18 (g) Other post-conviction proceeding Yes No _____

19 8. Did you appeal your conviction? Yes No _____

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal Yes No _____

22 Year: 06/22/2007 Result: Affirmed _____

23 Supreme Court of California Yes No _____

24 Year: 08/29/2007 Result: Petition for review Denied.

25 Any other court Yes _____ No

26 Year: _____ Result: _____

27 (b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes No _____

2 (c) Was there an opinion? Yes _____ No

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes _____ No

5 If you did, give the name of the court and the result:

6 _____
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
this conviction in any court, state or federal? Yes No _____

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: California Supreme Court

19 Type of Proceeding: Petition for Review

20 Grounds raised (Be brief but specific):

21 a. Denial of Due Process Rights under the XIV Amend.

22 To U.S. Constitution when Trial Court Failed to

23 Conduct Competency Hearing.

24 Result: Review Denied. Date of Result: 08/29/2007

25 II. Name of Court: _____

26 Type of Proceeding: _____

27 Grounds raised (Be brief but specific):

1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No X _____

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: PETITIONER WAS DENIED DUE PROCESS UNDER THE FOURTEENTH

6 AMENDMENT TO THE UNITED STATES CONSTITUTION WHEN THE TRIAL COURT

7 WAS CONFRONTED WITH SUBSTANTIAL EVIDENCE OF INCOMPETENCE, AND

8 FAILED TO CONDUCT A COMPETENCY HEARING.

9
10
11
12
13 Supporting Facts: The trial court read and considered the probation
14 report. (See Court Transcripts, CT 43.) Contained within the
15 probation report was the following: "Mental Health Issues: Yes,"
16 and "Diagnosis: Mentally Incompetent." (CT. 40.) The trial court,
17 though, did not declare a doubt, nor did the court suspend pro-
18 ceedings. The court however, did erroneously sentence petitioner
19 to five years in state prison.

20 Petitioner has evidence, and can show through Mental Health
21 records that he has a severe Mental Disorder/Disability, as well as,
22 Developmental Disability.

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 All grounds have been exhausted in State Courts.
26
27
28

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 Pate v. Robinson (1966) 383 U.S. 375, 377; Oke v. Oklahoma,
5 (1985) 470 U.S. 68, 83; Blazak v. Ricketts (9th Cir. 1993) 1F.
6 3d 891, 894; Torres v. Prunty (9th Cir. 2000) 223 F.3d 1103,09.

7 Do you have an attorney for this petition? Yes No X

8 If you do, give the name and address of your attorney:
9 _____

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.
12

13 Executed on 10-7-07

14 Date

Signature of Petitioner

20 (Rev. 6/02)

Court of Appeal, First Appellate District, Div. 5 - No. A115150
S154785

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

KEITH EDWARD HOPKINS, Defendant and Appellant.

The petition for review is denied.

**SUPREME COURT
FILED**

AUG 29 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

DECLARATION

I, Cornelius Moore, Declare:

1. I am an inmate housed at California Medical Facility, State Prison, in Vacaville, CA.
2. I have some workable background concerning Law and Legal matters.
3. As an inmate housed here with Mr. Hopkins since 07/08/07, I have gained considerable knowledge regarding the issues pertaining to Mr. Hopkins case.
4. I have worked on Mr. Hopkins case since August 27, 2007, and I have at his request, and with his authorization prepared this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 et seq.
5. The complex facts and matters contained in this petition are more within my knowledge and understanding than his; Mr. Hopkins is incarcerated in a prison and incapable of drafting and fully understanding the contents of this Petition as a result of his developmental disabilities, and his mental deficits.

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I declare under the penalty of perjury that the foregoing is true. Signed on: 10/7/07


Cornelius Moore